

31769
EB

SERVICE DATE - JULY 16, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-31 (Sub-No. 39X)

GRAND TRUNK WESTERN RAILROAD INCORPORATED—ABANDONMENT
EXEMPTION—IN GENESEE COUNTY, MI

Decided: July 12, 2001

By petition filed on March 28, 2001,¹ Grand Trunk Western Railroad Incorporated (GTW)² seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 2.48-mile segment of a line of railroad known as the Flint Old Main, extending between milepost 267.5, near Corunna Road (Michigan State Route 21), and milepost 269.98, near Grand Traverse Street, in Flint, Genesee County, MI. We will grant the exemption, subject to standard employee protective conditions.

BACKGROUND

The Flint Old Main is a single-track, stub-ended line that formerly was part of GTW's through route across Flint. It extends from a connection at another GTW line near Corunna Yard, eastward into Flint for a distance of approximately 2.48 miles. After a relocation project shifted its main line further south, GTW retained the Flint Old Main in order to provide service to General Motors Corporation (GM) at GM's Chevrolet Complex in Flint.³ The Delphi Automotive Systems LLC gas tank plant (Delphi West) is the only remaining facility in the Chevrolet Complex and the outbound manufactured gas tanks produced at Delphi West constituted the only traffic transported over the line. In September 2000, this traffic was shifted to an independently operated transload facility near GTW's Corunna Yard for truck-rail transfer. Operations at Delphi West are expected to be phased out over the next several years as GM switches from metal to plastic tanks. The line handled 1,939 carloads in 1999 and 596 carloads through September 2000.

¹ Notice of the filing was served and published in the Federal Register on April 17, 2001 (66 FR 19831-32).

² GTW is a subsidiary of Canadian National Railway Company, which controls a number of rail carriers in the United States.

³ GTW states that GM has been notified of and does not object to the proposed abandonment.

In a letter filed on May 24, 2001, Delphi West states that it has been satisfied with the alternative transportation services currently handling its outbound gas tank traffic and anticipates no further need for rail service. Therefore, it does not object to the proposed abandonment. There are no other shippers currently using the line.

GTW states that the Flint Old Main is generally in marginal condition. It estimates that necessary rehabilitation and capital expenditures over the next 5 years would amount to \$492,000, and ordinary maintenance expenses would be \$92,000 annually. If service were to resume today, GTW submits that industrial trackage at GM's Chevrolet Complex would require \$52,000 in immediate repairs.

GTW also states that there are 12 public highway grade crossings on the Flint Old Main, at least one of which will require repaving in the near future by the City of Flint if the tracks are not moved.

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10903, a rail line may not be abandoned without our prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. An exemption will also foster sound economic conditions and encourage efficient management by relieving GTW of the cost of owning and maintaining a line which is in marginal condition and by allowing GTW to use its assets more productively elsewhere on its rail system [49 U.S.C. 10101(4), (5) and (9)]. Other aspects of the rail transportation policy will not be affected adversely.

Regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power. No local traffic has moved over the line since September 2000, and no future traffic is anticipated. Moreover, Delphi West, the only former shipper on the line, does not oppose the proposed abandonment and has satisfactory alternative transportation service available. Nevertheless, to ensure that Delphi West is informed of our action, we will require GTW to serve a copy of this decision on the shipper within 5 days of the service date of this decision and certify to us that it has done so. Given our market power finding, we need not determine whether the proposed transaction is limited in scope.

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees. Accordingly, as a condition to granting this exemption, we will impose the employee protective conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

GTW has submitted an environmental report with its petition and has notified the appropriate Federal, state, and local government agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified its data, and analyzed the probable effects of the proposed action on the quality of the human environment. SEA served an environmental assessment (EA) on May 25, 2001, and requested comments.

No comments to the EA were filed by the June 22, 2001 due date. Based on SEA's recommendation, we conclude that the proposed abandonment will not significantly affect either the quality of the human environment or the conservation of energy resources. Although SEA has indicated that the right-of-way may be suitable for public use under 49 U.S.C. 10905, no one has sought a public use condition, and none will be imposed.⁴

It is ordered:

1. Under 49 U.S.C. 10502, we exempt from the prior approval requirements of 49 U.S.C. 10903 the abandonment by GTW of the above-described rail line, subject to the employee protective conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).
2. GTW is directed to serve a copy of this decision on Delphi West within 5 days after the service date of this decision and to certify to the Board that it has done so.
3. An offer of financial assistance (OFA) under 49 CFR 1152.27(c)(1)⁵ to allow rail service to continue must be received by the railroad and the Board by July 26, 2001, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by the filing fee, which is currently set at \$1,000. See 49 CFR 1002.2(f)(25).

⁴ Public use requests were due no later than 20 days after publication of the notice of the petition in the Federal Register, or by May 7, 2001.

⁵ See Aban. and Discon. of R. Lines and Transp. Under 49 U.S.C. 10903, 1 S.T.B. 894 (1996) and 2 S.T.B. 311 (1997).

4. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: **“Office of Proceedings, AB-OFA.”**

5. Provided no OFA has been received, this exemption will be effective on August 15, 2001. Petitions to stay must be filed by July 31, 2001, and petitions to reopen must be filed by August 10, 2001.

6. Pursuant to the provisions of 49 CFR 1152.29(e)(2), GTW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by GTW's filing of a notice of consummation by July 16, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed not later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams
Secretary